



ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING
DATE REQUESTED: OCTOBER 16, 2013

NAME & NUMBER OF PROJECT: 15101 Debba Dr.
SP-2013-0110D

NAME OF APPLICANT OR ORGANIZATION: Prossner & Associates
Kurt Prossner, PE (512) 918-3343

LOCATION: 15101 Debba Dr.

PROJECT FILING DATE: March 25, 2013

PDRD/ENVIRONMENTAL STAFF: Liz Johnston, 974-1218
liz.johnston@austintexas.gov

PDRD/CASE MANAGER: Amanda Couch, 974-2881
amanda.couch@austintexas.gov

WATERSHED: Running Deer Creek (Water Supply Rural),
Drinking Water Protection Zone

ORDINANCE: Comprehensive Watershed Ordinance (current Code)

REQUEST: Variance request is as follows:
1) To allow fill in excess of 4', not to exceed 14', LDC 25-8-342(A)

STAFF RECOMMENDATION: Not recommended.

REASONS FOR RECOMMENDATION: The findings of fact have not been met.



Staff Findings of Fact
Planning and Development Review Department
Environmental Criteria Manual Appendix U

Project: 15101 Debba Dr., SP-2013-0110D
Ordinance Standard: Land Development Code Section 25-8-342(A)
Variance Request: To allow fill in excess of four feet.

Justification:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?

No – The current office building was originally constructed as a residence. The fill was brought in as an off-site disposal location for spoils from construction sites that were not related to the current use. The fill was not authorized under an approved City of Austin site plan. It is staff's opinion that the existing residential improvements could have been converted into office use without requiring any environmental variances.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

No – The applicant currently operates a construction contracting business at this site using a building that was converted from a residence into an office space. There has been expansion of impervious cover due to the necessary parking for construction vehicles, but there does not appear to be a need for more than 4' of fill in the area used for parking. The applicant has not demonstrated a need for fill greater than 4' to allow the operation of the existing business. Further, the fill occurred in areas that would have been required to be undisturbed as part of the 40% natural area, so there has already been a harmful environmental consequence as a result of the unpermitted fill.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.

No - The proposal would provide special privileges not enjoyed by other similarly situated properties with similarly timed development. There are no unique circumstances applicable to this property regarding existing slopes or other environmental features that would require additional fill on the site.


4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?

No – The fill was partially located within the 40% natural area buffer. Because water quality controls are not required when the impervious cover is less than 20% of the net site area, the 40% natural area is intended to serve as the water quality treatment for the development. Although the applicant will be required to restore the natural area back to natural condition, there has already been a negative impact to the water quality at this site.

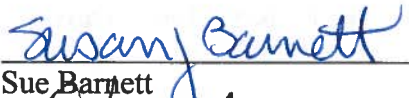
5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?

Not applicable.

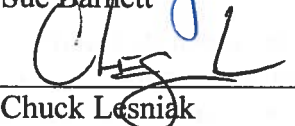
Environmental Reviewer:


Liz Johnston

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:


Chuck Lesniak

Date: October 9, 2013

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



MEMORANDUM

TO: Mary Gay Maxwell, Chairperson and Members of the Environmental Board

FROM: Liz Johnston, Environmental Review Specialist Senior
Planning and Development Review Department

DATE: October 9, 2013

SUBJECT: 15101 Debba Drive, SP-2013-0110D

On the October 16, 2013 agenda is a request for the consideration of a variance for fill greater than the allowable four feet.

Description of Property

The subject property is located in the Running Deer Watershed, which is classified as a Water Supply Rural watershed and is located within the Drinking Water Protection Zone. The property is entirely uplands, with no 100-year floodplain, Critical Water Quality Zone (CWQZ) or Water Quality Transition Zone (WQTZ). The site is located in the City of Austin 2-mile Extra Territorial Jurisdiction. The site's existing development includes a building that was originally used as a residence, which was subsequently converted into the construction contracting business currently in operation, and approximately 13.5' of unpermitted fill that was brought in over time from off-site construction projects.

Existing Topography/Soil Characteristics/Vegetation

Previous to the commercial development, the vegetation on the site likely consisted of ashe juniper and live oak scrubland with native grasses and forbs. It does appear from aerials that many trees were impacted by the fill activities. It should be noted that there is no tree protection ordinance in the ETJ; however, the removal of vegetation is an activity that falls under the definition of development and would have required a site plan complying with the required 40% buffer.

Description of Project

The current site plan proposes revegetate existing impervious cover to be in compliance with the watershed's 20% impervious cover limit. However, the applicant wishes to keep the unpermitted fill, which in some areas reaches 13.5'. The fill material originated as spoils from off-site construction projects and is largely unrelated to the commercial activities at the site. The applicant has constructed a series of terraced retaining walls to keep the fill stable. A significant portion of the fill is located in the area required by watershed regulations to be kept in a natural state (40% buffer area). The site has not yet been revegetated back to its natural state considering the tree removal that would not have been allowed in the buffer area and the applicant has not yet provided detailed information regarding how they intend to restore the 40% buffer area back to the previous condition.

Environmental Code Exception Request

The following exceptions to the land development code are being requested:

- 1) To allow fill in excess of 4' not to exceed 14', LDC 25-8-342(A)

Conditions for Staff Approval

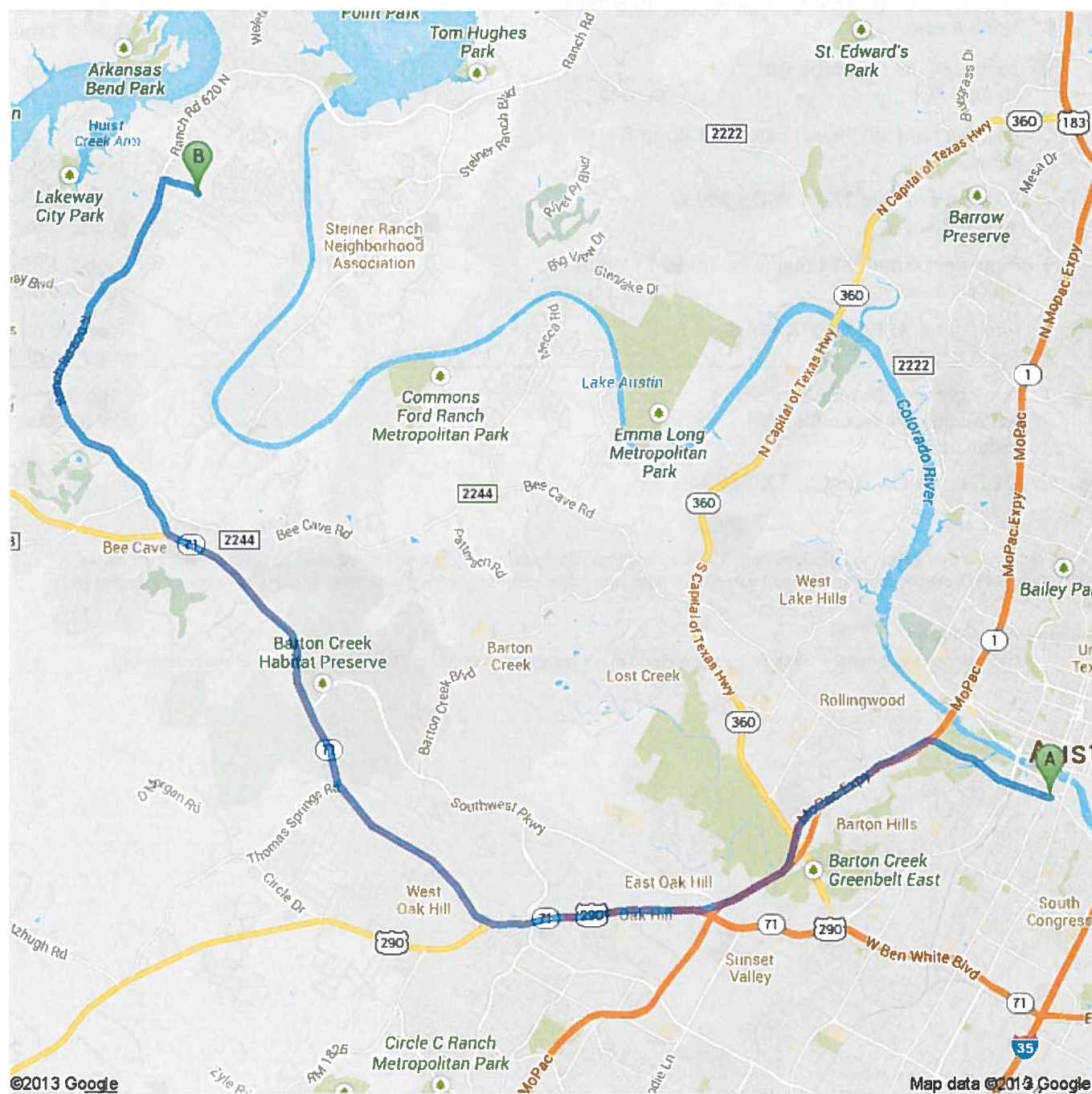
There are no conditions for approval.

Recommendation

Staff does not support the variance request. No additional consideration can be given by staff to the fact that the fill is existing and unpermitted. The requested variance would not have been supportable if the applicant had requested the variance prior to placing the fill. Please refer to the attached Findings of Fact for further explanation.



Directions to 15101 Debba Dr, Austin, TX 78734
21.9 mi – about 31 mins





505 Barton Springs Rd, Austin, TX 78704

-
- | | | |
|----|--|---------------|
| 1. | Head west on Barton Springs Rd toward S 1st St | go 2.1 mi |
| | About 5 mins | total 2.1 mi |
| 2. | Continue onto Frontage Rd | go 0.5 mi |
| | About 1 min | total 2.6 mi |
| ① | 3. Take the ramp on the left onto TX-1 Loop S | go 2.8 mi |
| | About 3 mins | total 5.3 mi |
| ⑦1 | 4. Take the exit onto TX-71 W/US-290 W | go 3.2 mi |
| | About 5 mins | total 8.5 mi |
| ⑦1 | 5. Slight right onto TX-71 (signs for Texas 71 W/Llano) | go 7.1 mi |
| | About 9 mins | total 15.6 mi |
| ↗ | 6. Turn right onto Ranch Rd 620 S | go 5.8 mi |
| | About 8 mins | total 21.4 mi |
| ↗ | 7. Turn right onto Debba Dr | go 0.5 mi |
| | Destination will be on the right | total 21.9 mi |
| | About 1 min | |

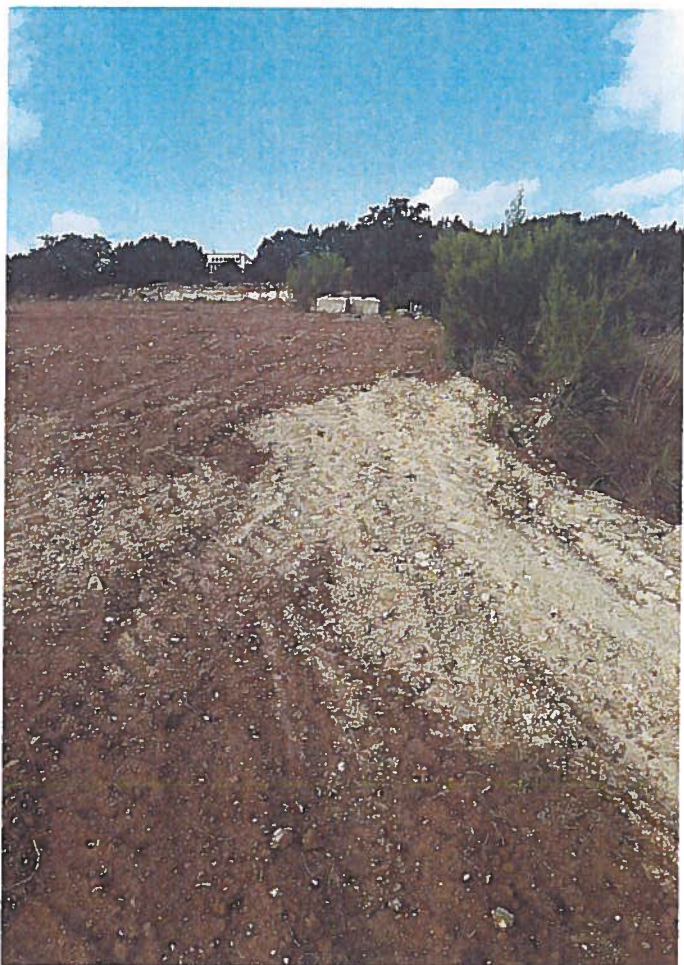
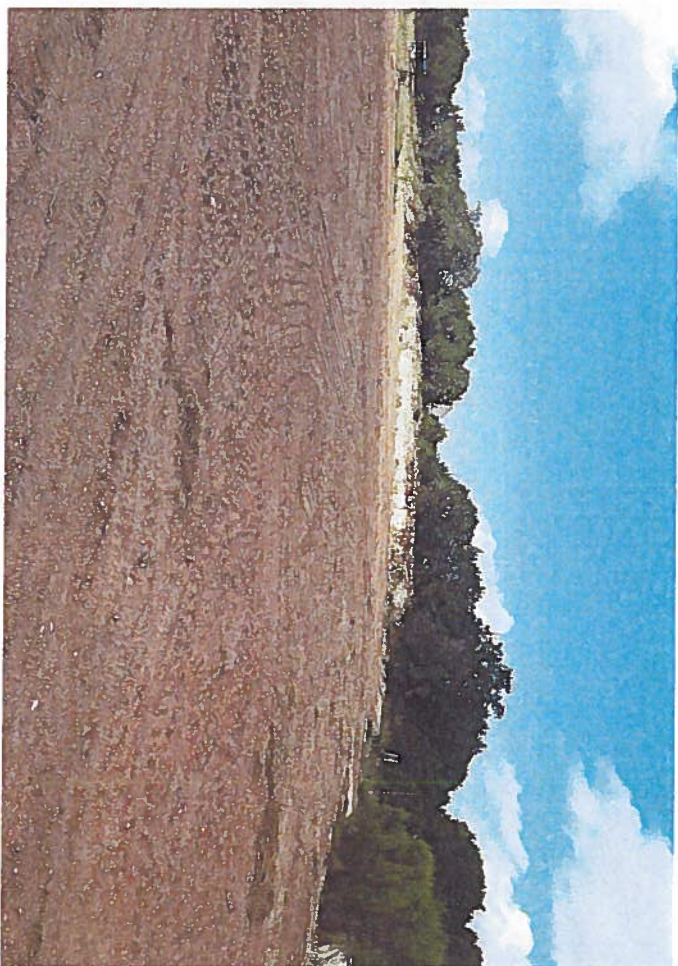


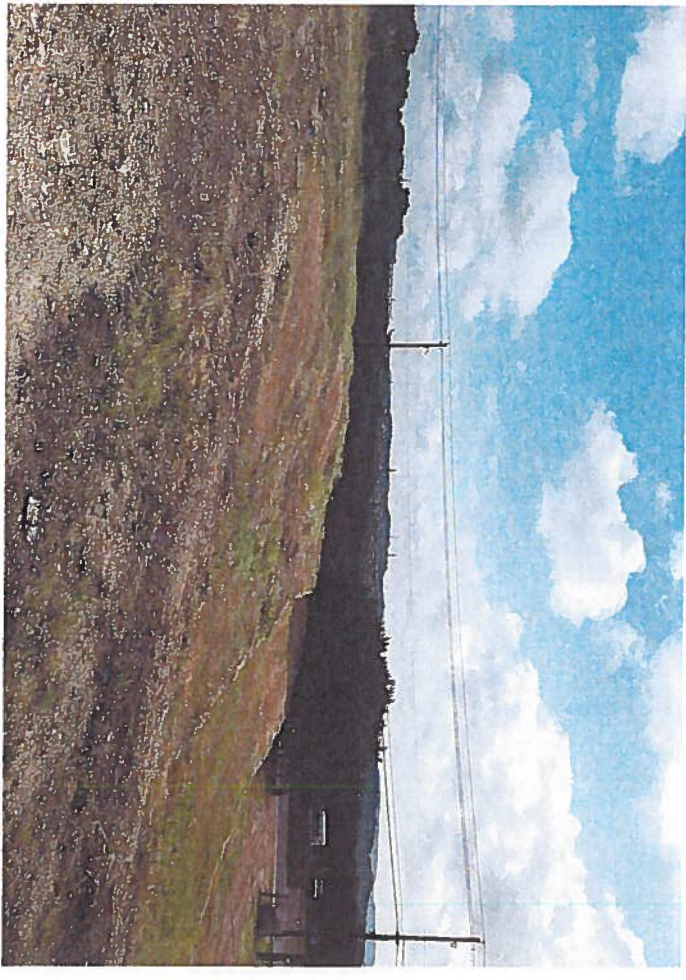
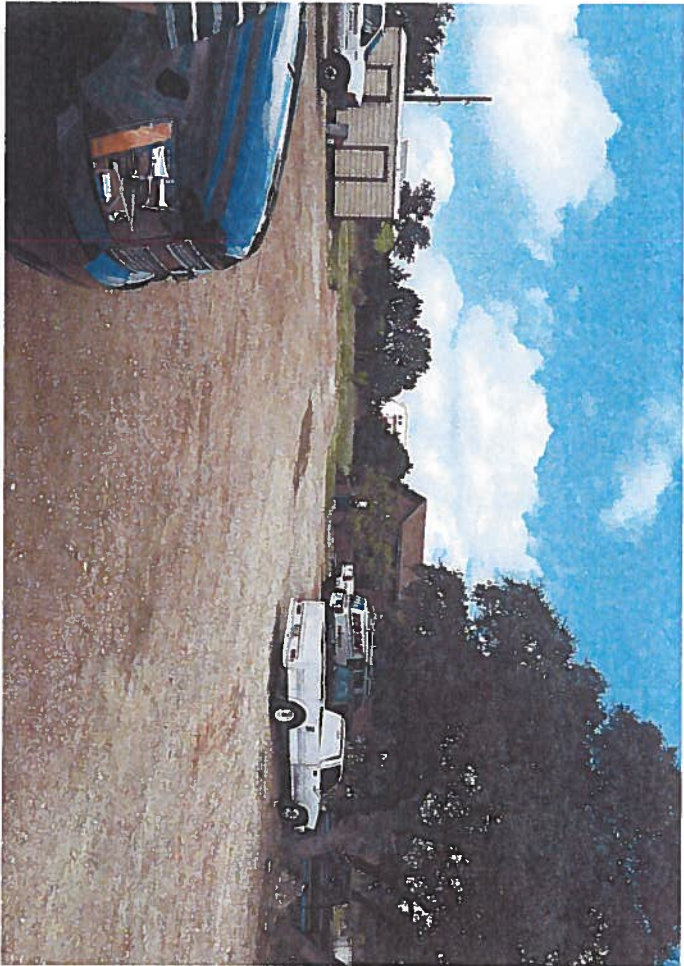
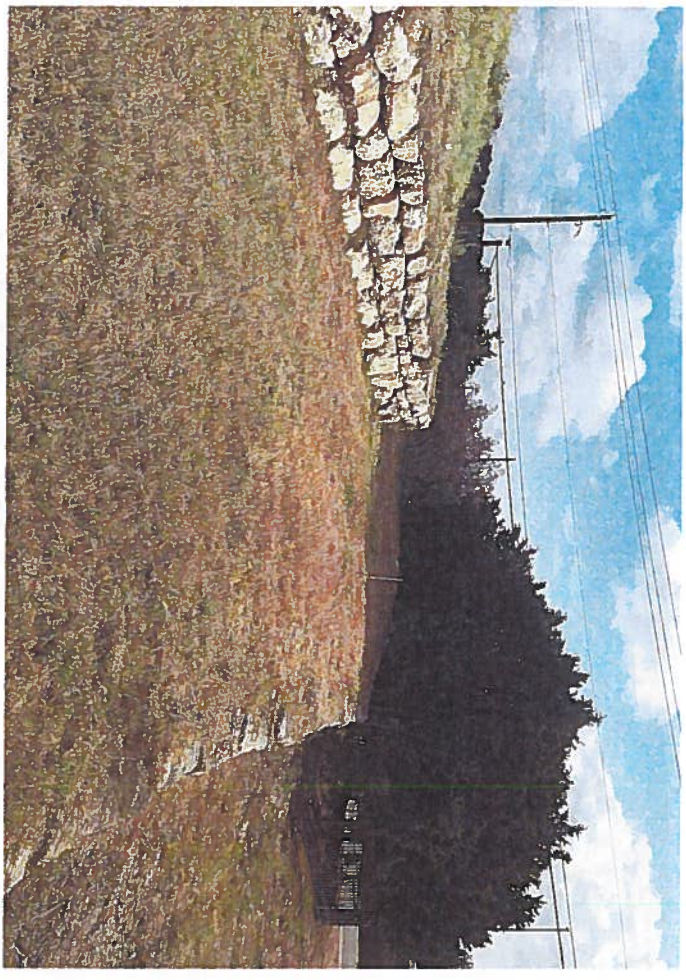
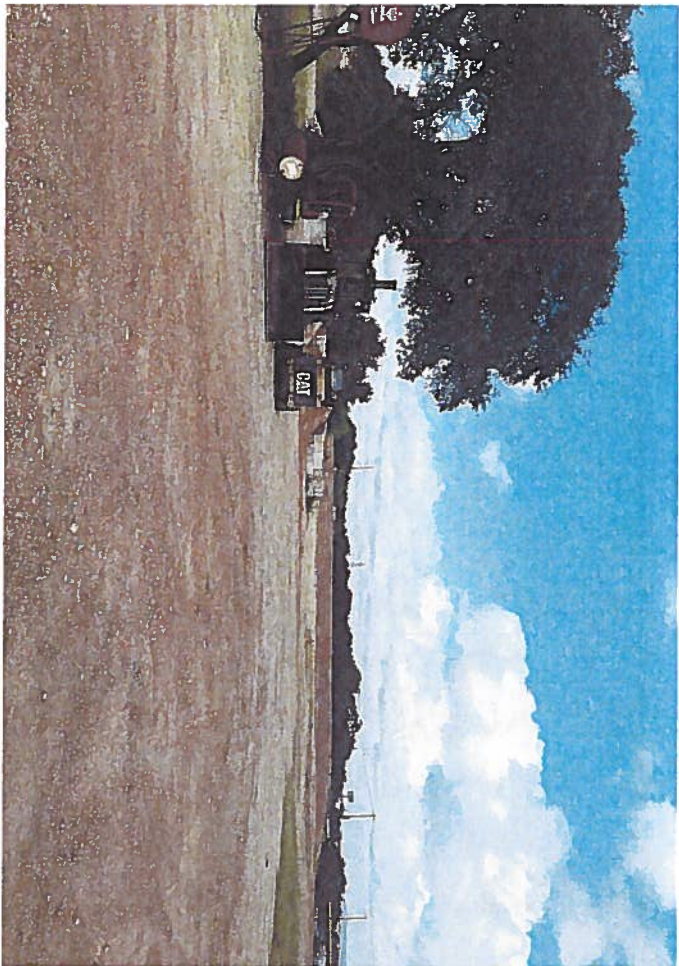
15101 Debba Dr, Austin, TX 78734

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2013 Google

Directions weren't right? Please find your route on maps.google.com and click "Report a problem" at the bottom left.







ENVIRONMENTAL BOARD VARIANCE APPLICATION TEMPLATE

Sir/Madam,

This correspondence is being submitted as a request for a variance from Section 25-8-341 and Section 25-8-342 of the City of Austin Land Development Code for the above referenced Site Plan Application. The variance request is to allow for fill over a portion of the tract with depths ranging from 0.5 feet to approximately 9.5 feet over the allowable 4 feet. The Owner of the site had previously received a basic development permit from Travis County for the placement of the fill in 2003 but was unaware that he was required to submit for a permit to the City of Austin as he was not adding impervious cover to the site. It must also be noted that at the time the Travis County permit was approved the site was a residential use and given that use the placement of the fill would not require a permit from the City of Austin. This site was issued a "Red Tag" by the City of Austin for development without an approved site development permit.

It is our opinion that approval of the variance request will not provide the applicant with a special privilege over similar developments as the site had very steep topography and the addition of the fill did not provide the Owner with any additional developable land. The Owner has placed the fill carefully and has installed rock retaining walls to reduce slopes on the land and assist in reducing erosion off the site. All of the current buildings and drives are not located in any of the fill area and since the site is limited to 20% impervious cover no new development can occur on the site over what is existing. All of the flows from the developed portion of the site will sheet flow across the fill area which will be identified as a vegetative filter strip before being released into the right of way of Debba Drive a Travis County roadway. As part of the development permit the Owner will be required to re-vegetate the entire disturbed fill area with a standard seed mixture meeting the requirements of the City of Austin.

October 7, 2013

Approval of the variance request should not provide the applicant with a special privilege over similar developments. The fill is existing and has been in place for well over five (5) years. We believe removal will cause more environmental issues that allowing the fill to remain and re-vegetating the area with COA standard seeding. The variance approval we believe is a minimum departure from the Land Development Code and the approval of the variance will not create any significant environmental consequences.

Should you have any questions or require any additional information, please contact our office.

Sincerely,

A handwritten signature in black ink that reads "Phil Moncada". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Mr. Phil Moncada,

Moncada Consulting

cc. Mr. Marc Pate

PROJECT DESCRIPTION

Applicant Contact Information

| | |
|---------------------|---------------------|
| Name of Applicant | Marc Pate |
| Street Address | 15101 Debba Drive |
| City State ZIP Code | Austin, Texas 78734 |
| Work Phone | 512-848-8988 |
| E-Mail Address | pandai@swbell.net |

Variance Case Information

| | |
|---|--|
| Case Name | Marc Pate |
| Case Number | SP-2013-0110D |
| Address or Location | 15101 Debba Drive |
| Environmental Reviewer Name | Liz Johnston |
| Applicable Ordinance | Sec. 25-8-341 and Sec. 25-8-342 |
| Watershed Name | Running Deer Creek |
| Watershed Classification | <input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input checked="" type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone |
| Edwards Aquifer Recharge Zone | <input type="checkbox"/> Barton Springs Segment <input type="checkbox"/> Northern Edwards Segment <input checked="" type="checkbox"/> Not in Edwards Aquifer Zones |
| Edwards Aquifer Contributing Zone | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| Distance to Nearest Classified Waterway | Approximately 0.70 miles |
| Water and Waste Water service to be provided by | On site septic (existing) and water from WC&ID No. 17 (existing) |
| Request | The variance request is to allow a fill over 4 feet up to a maximum of 9.5 feet in a WSR watershed |

October 7, 2013

| Impervious cover | Existing | Proposed |
|------------------|-------------|-------------|
| square footage: | 54,765 s.f. | 54,765 s.f. |
| acreage: | 6.33 acres | 6.33 acres |
| percentage: | 20% | 20% |

Provide general description of the property (slope range, elevation range, summary of vegetation / trees, summary of the geology, CWQZ, WQTZ, CEFs, floodplain, heritage trees, any other notable or outstanding characteristics of the property)

Site consist of Lots 26 and 27 Cardinal Hills Estates Unit 11 Subdivision in western Travis County located off Debba Drive. The site topography ranges from elev. 860 msl at the top to around 818 msl along Debba Drive. The site appears to have been used as a base pit from old aerials and currently has an old house that is being used as an office with some outside parking. The Owner has been placing fill on the site for several years and explained that he received a fill permit from Travis County when the property was used as a residence. Since that time he has stabilized the fill and has started re-vegetation procedures. He has been red tagged by the City Environmental Office for construction without a site permit. The plans consist of basically cleaning up what is there, establishing parking areas by the use of curbing and re-vegetation all other disturbed areas. The site permit and fill do not give the Owner any additional use of the land as he is still limited to 20% impervious cover which he will not exceed and most of the fill was placed in areas he is not going to use for parking or buildings.

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)

The plans are attached to this application and indicate the limits of the fill over 4 feet in depth.

FINDINGS OF FACT

As required in LDC Section 25-8-41, in order to grant a variance the Land Use Commission must make the following findings of fact:

Include an explanation with each applicable finding of fact.

October 7, 2013

Project: Marc Pate 15101 Debba Drive

Ordinance:

A. Land Use Commission variance determinations from Chapter 25-8-41 of the City Code:

- 1. The requirement will deprive the applicant of a privilege or the safety of property given to Owners of other similarly situated property with approximately contemporaneous development.**

No, however it is our belief that the placement of the fill did not create any additional developable land for the Owner, it was not done with an intent to create more area but merely to lessen the radical slopes and make the site more pedestrian friendly and less erosive. The Owner has agreed not to propose any development over the areas of fill that exceed 4 feet.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;**

No. This part of the development where the fill has been placed is not an area the Owner is proposing any development on. In addition the retaining walls and restoration of bare areas has reduced the runoff from this site considerably. The site is existing and it is our opinion that removal and re-vegetating the areas would be more damaging environmentally that allowing him to continue and complete the existing re-vegetation.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;**

No, however it is our feeling that since the placement of the fill did not create any additional developable land for the Owner it was not done with an intent to create more area but merely to lessen the radical slopes and make the site more pedestrian friendly and less erosive. The Owner has agreed not to propose any development over the areas of fill that exceed 4 feet.

- c) Does the variance create a significant probability of harmful environmental consequences;**

No, this variance will not increase the probability of harmful environmental consequences as the area where the cut is proposed will be contained with approved structural methods. The area has been stabilized and runoff sheet flows across vegetation and then through culvert pipes under roadway. Downstream area is vegetated and sheet flow disperses runoff before entering any waterway. In addition, the lower portion adjacent to the roadway is currently vegetated, even with the current drought we have been experiencing.

3. **Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.**

Yes as The Owner gets no additional land use out of the fill and has agreed not to propose any development over the areas of fill that exceed 4 feet. All areas on the site will be re-vegetated meeting City of Austin specifications. It is our opinion that water quality will not be affected by approval of the variance.

- B. **Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):**

1. **The criteria for granting a variance in Section A are met;**

Yes, impervious cover is not exceeding 20% of the site. Revegetating this area with no proposal development to occur.

2. **The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and**

Yes, owner lives on-site and operates his business here. The area where fill is placed will not be used for development purposes but requiring fill removal would be financially detrimental. He restored an area that had been previously used as a pit to reduce slopes and create sheet flow.

3. **The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.**

Yes, the owners would continue to operating his business but not use the areas where fill was placed for economic benefit or gain. Requiring fill removal would be financially detrimental.

****Variance approval requires all above affirmative findings.**

Exhibits for Board Backup and/or Presentation

Please attach and paginate.

- X Aerial photos of the site (backup and presentation)
- o Site photos (backup and presentation)
- o Aerial photos of the vicinity (backup and presentation)
- o Context Map—A map illustrating the subject property in relation to developments in the vicinity to include nearby major streets and waterways (backup and presentation)
- o Topographic Map - A topographic map is recommended if a significant grade change on the subject site exists or if there is a significant difference in grade in relation to adjacent properties. (backup and presentation)
- o For cut/fill variances, a plan sheet showing areas and depth of cut/fill with topographic elevations. (backup and presentation)
- o Site plan showing existing conditions if development exists currently on the property (presentation only)
- o Proposed Site Plan- full size electronic or at least legible 11x17 showing proposed development, include tree survey if required as part of site or subdivision plan (backup and presentation)
- o Environmental Map – A map that shows pertinent features including Floodplain, CWQZ, WQTZ, CEFs, Setbacks, Recharge Zone, etc. (backup and presentation)
- o An Environmental Assessment pursuant to ECM 1.3.0 (if required by 25-8-121) (backup only)
- o Applicant's variance request letter (backup only)

